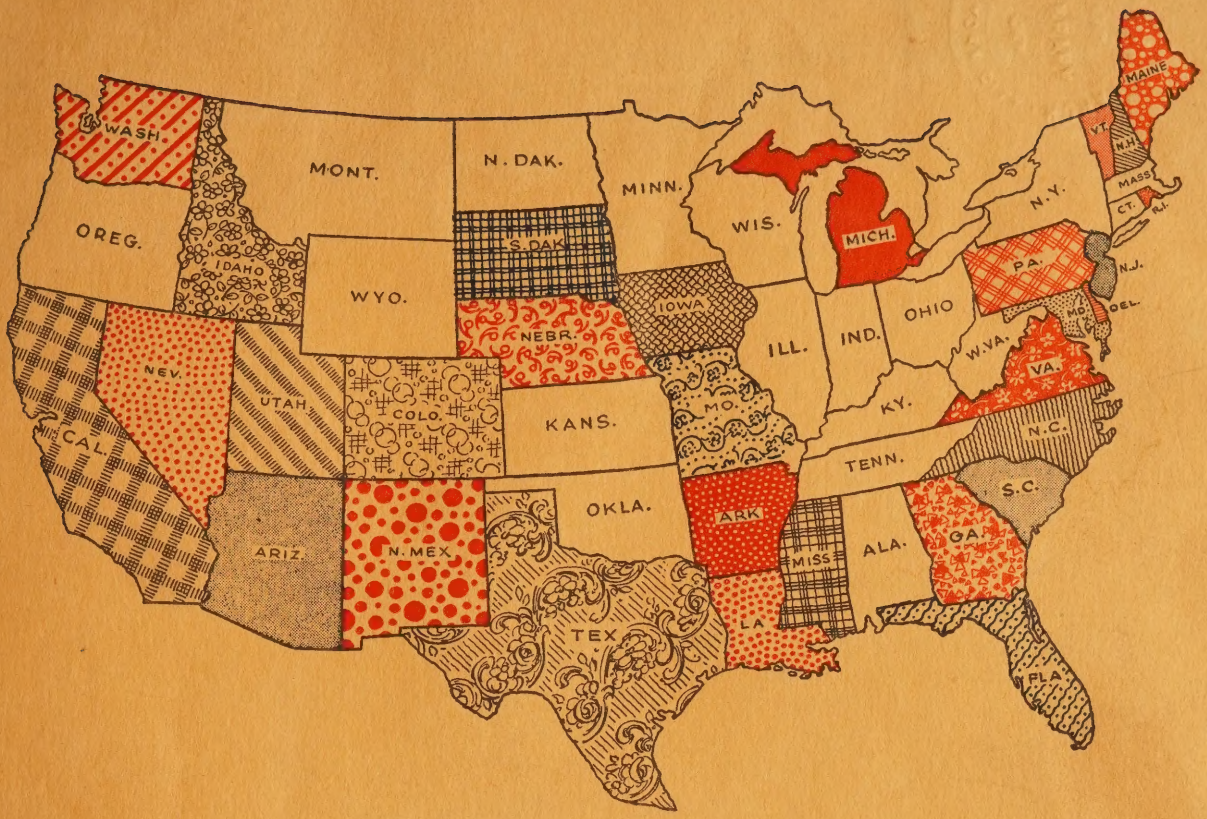

American Patch Work

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Incorporated to Promote the Interests of Children

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American Patchwork

We do not believe in child labor in the United States. Or so we would probably claim if a foreign visitor were to ask us. Yet if that foreign visitor were inquisitive enough to study our federal census or the vagaries of our state child labor laws, the situation might be embarrassing.

We do not believe in child labor—but 1,060,858 children between 10 and 15 are at work in the United States, according to the Census of 1920.

We do not believe in child labor—but 378,063 of these working children are between *10 and 13 years of age.*

We do not believe in child labor—but the Census enumerates children at work in every state in the Union.

It is easy to play the pot-and-kettle game in this matter. The southerner points with horror to child labor in New York tenements. In New York they mention southern cotton mills or Michigan beet fields. In Michigan they speak of Mississippi canneries or Texas cotton fields. And in Texas they say that some of the highest percentages of child-employment are in eastern textile cities.

The truth is we are all culpable. The percentage of children from 10 to 15 employed ranges from 3 per cent on the Pacific Coast to 17.5 per cent in the East South Central States. (25.5 per cent in Mississippi is the highest rate in the country.)

The Census shows that child labor is NATIONAL; it exists in some degree in every state, within or without the law.

And there are two things which the Census does not show:

(1) That under their state laws thousands of these enumerated children work long hours, even at night; and

(2) That, as competent national and local investigation is always telling us, there are plenty of children *under* 10 at work, though the Census does not list them.

We do not believe in child labor in the United States—but child labor still exists.

Why?

Because although we have a national *sentiment* against it, we have no national expression of it, that is, no national standard, and no uniform standard in our state laws.

The feeling that child labor is inhuman, uneconomic and not to be tolerated in America has grown and spread since the first child labor law was passed in Massachusetts in 1837. At that time textile mills were the chief concern, but gradually, as our industrial life became more complex, we discovered that other forms of employment were equally bad. Coal mines, canneries, tenement homework, glass factories, street trades, industrialized agriculture, have each in turn been found to be exploiters of children. The growth of child labor laws has been largely the story of prohibiting one or two forms of employment and little by little adding others, reducing hours of labor, and so on.

Slowly our whole conception of what a child should do in childhood has changed and the emphasis in our laws has shifted. A good child labor law as we now see it would not only prevent overwork but would also open to each child opportunities for health, schooling, play, freedom—all the child-necessities of which labor would deprive him, and without which he cannot become the kind of citizen we want. We believe that a child labor law is constructive, the groundwork of child-development.

And this view has further complicated the problem. A kind of work may not be especially harmful in itself, yet if it deprives the child of schooling, it is harmful. There has been much room for argument and difference here. Some states have moved in one direction and some in another. Some have moved steadily though slowly, and others only spasmodically or under stiff pressure. Some have codified all their child welfare laws to be sure they are properly related and others have laws that bear but slight relation to each other.

Because we have no national standard we have done these things haphazard. We have never been able to say, "this we know deprives a child of his chance for development and consequently no child in America can suffer it."

As Miss Grace Abbott, Chief of the Federal Children's Bureau has said, any map which attempted to show our assortment of state child labor laws would resemble a patchwork quilt. And there are holes in the patchwork. For patchwork is at best a poor covering without a solid background.

We Have No Solid Background in Child Labor Laws

Twice we have attempted a national minimum standard. In 1916 and 1919 Congress passed laws by which it hoped to fix certain very simple standards:

(1) That no child under 14 be employed in any mill, cannery, workshop, factory, or manufacturing establishment;

(2) That no child between 14 and 16 be employed in any such establishment for more than 8 hours a day or 48 hours a week, or at night; and

(3) That no child under 16 be employed in any mine or quarry.

There is nothing radical about these standards. They say nothing of education or physical fitness. They do not touch dozens of occupations in which children engage. They would not completely solve the child labor problem, but they would form a solid working basis, and they would express our conviction that there are certain limits in child employment in America below which no State can go.

The Congressional vote on these laws (both of which have since been declared unconstitutional by the Supreme Court) showed that such standards are accepted as reasonable in the United States. In fact, when the laws were passed there were many people who complained that they did not go far enough, considering the high standards of some of our states. And most of us have probably believed that these three simple standards have existed in the majority of states for many years.

One or more of them do exist in the majority of states, and many states go much further in one way or another. Yet only 14 states have all of these age and hour limits, or higher limits. Four other states have them all except the mine and quarry clause, and since these four are not great mining states, we may say that *18 in all have these minimum standards in full—or higher standards.*

What of the rest? It is practically impossible to summarize their provisions concerning child labor, which are in truth nothing but patchwork.*

The Periods of Federal Regulation

With such variety in our state standards it is clear that the two federal laws were of real service to American children. During the Census decade 1910-1920, covering the period of the two laws, and the years during which many states raised their laws in one or more respects to these standards, child labor was materially decreased, especially in the states and industries affected by the provisions.

* See Appendix, p. 14, for digest of state laws on child labor.

The number of children 10 to 15 years old in mines and quarries declined 60 per cent in this decade. Indiana, which had only a 14-year limit for mines, showed a decrease of 61.4 per cent, while Illinois, with a 16-year limit, showed a slight increase. That is, much of Indiana's decrease must be attributed to the federal laws, since her own 14-year limit did not change.

In mills and factories in this decade, decreases of from 40 to 60 per cent occurred in the number of children employed in the states where laws were changed to meet these standards, or where, during the period of the federal laws, federal permits were required because of the unsatisfactory state laws. Child labor in mills and factories decreased 46.6 per cent in Virginia, 50 per cent in Georgia, 43.2 per cent in North Carolina, and 62.5 per cent in South Carolina, all states where federal permits were required. The 1920 Census was taken while the second federal law was still in force.

Factory inspectors said in many states that the federal laws helped their own enforcement. Manufacturers even said that they found it easier to work under the federal laws. And there was a distinct change in the number of children employed after the first law was declared unconstitutional and before the second was passed. During the nine months when the first federal law was in force, the Children's Bureau inspected 686 factories in 26 states. After the law was declared unconstitutional, they inspected 392 factories in 10 states for purposes of comparison. In the 686 factories, under the federal law, they found 383 children under 14 employed (violations). In the 392 factories, without the federal law, they found 909 children under 14. Under the federal law, 1094 children under 16 in the 686 factories were working more than 8 hours a day, or at night (violations). Without the federal law, in the 392 factories, 3,189 children under 16 were so employed.

The enforcement of the federal standards did—and would again—reduce the numbers of children employed and the number of hours of labor of children. The federal laws did not simply nationalize standards which the states already lived up to; they fixed standards which, simple though they are, many states have never had.

But Both Those Laws Have Been Declared Unconstitutional

The federal government cannot, according to our present interpretation of the Constitution, have anything to say about the conditions under which American children work. We have no national standard. We have only varied state laws with loopholes admitting child labor.

Yet We Know Child Labor is of National Concern

That statement is really a platitude. Not only is child labor national in scope, but we are perfectly aware that the health, the literacy, the full

development of American children concern the whole nation—and child labor affects them all.

When the army draft figures showed us that 29 per cent of our men were physically unfit, we cried, "We have not taken care of our children!" And whenever statisticians tell us that illiteracy is highest in those states where child labor is highest, that only 17 per cent of our children of school age are enrolled in any school, that we are a nation of 5th graders, or that a million children leave school each year for work, we admit freely that it is a serious and shameful thing for us, a nation that exalts its childhood.

Yet when we come down to the particulars of control or of state child labor standards, we are never quite so sure. We mention states' rights and over-centralization. Or we all find local *excuses* for child labor, when it is proved to exist in our own state.

The children produced in one state, however, have a real meaning to other states; their development has a national effect. There is no wall between the states, and their populations are interchangeable. There is nothing to prevent a person who grew up under Pennsylvania or West Virginia conditions becoming a citizen of Ohio later, if he gets a job there. Ohio happens to have very high standards of child-care, and is presumably interested in creating a high-class citizenship. Some of her neighbors have until recently been weak in child-care, and few of them are now her equal. Yet if the human products of a state that exploits or neglects children choose to move to Ohio—Ohio pays. She pays whether in the cost of health work, or in charity, or in terms of ignorance, or simply in the low-grade work which the untrained worker turns out. But she pays—for what some other state started.

In the long run, of course, we all pay. The child under 12 who slips into a Mississippi cannery and works long hours, with no chance for schooling, is just as much an American child as the one in Indiana who cannot go to work until he is 16 and has reached the 8th grade. Each of them will be American citizens, but probably they will be citizens of very different kinds.

We talk of American standards of child care and of education, of our national interest in children—and yet, as things now are, none of us can have anything to say about how American children may be worked or overworked in any state but our own. Every state in the Union might reach our hypothetical "standard" except one or two, and the one or two could still go on producing their generations of under-educated and overworked Americans.

Is this states' rights or is it state exploitation of American resources?

Economic Results of Child Labor Patchwork

There is still another national aspect of child labor which often escapes us. With our laws as unequal as they are child labor is actually a matter of inter-state competition. Where two states with similar industries have very different child labor laws, the industries in the high-standard state complain of underbidding, and those in the low-standard state refuse to give up their prerogatives in the way of children's labor.

A great many manufacturers, of course, have realized that in the long run child labor is not economical. Children grow up and they wander from job to job; this means a high turnover. They need to be trained; they are careless and prone to accident; and though they do work for small wages, they often create waste. Furthermore, having been only slightly educated, most of them never rise out of the unskilled-labor class; and you will not look for many foremen or executives or even skilled mechanics in their ranks. This is entirely contrary to our conception of the "self-made" American, yet in the majority of cases it has been found to be true. In one study of 7,147 wage-earners it was found that only 2 per cent of those who left school *at 14* ever entered high-grade industries, and this is not an unusual discovery. Investigation all over the country has proved the same thing: *it is only the most exceptional child who can rise to high-grade work or to high wage-earning with no training but the deadening tasks that child labor means.*

Yet in dollars and cents today, in wages and exploited hours, child labor *is* cheap for the man who does not look ahead, and some industries want it. If the canners may have it in Maryland, why not in Virginia or Delaware? So better laws and less child labor or shorter hours in all three states may be delayed because none of them will give up what the others have.

In the cotton industry child labor has long been a matter of competition. The mill man in Massachusetts cannot get so many young child laborers as the mill man in South Carolina or Georgia, nor may he work them so long. He therefore cries "Unfair conditions!" Go into the South, on the other hand, propose new laws and you hear it whispered that you are the agent of jealous northern textile industries. Go into Rhode Island to propose an 8-hour law, and you are told that they cannot afford it, considering the long hours allowed in competing southern mills.

Since the second federal law was declared unconstitutional, this competition in child labor has taken a new turn. Northern mills are said to have been buying southern property. They want to take advantage, so they

say, of the southern laws, and they believe the laws will not be changed for ten years or so. Meantime, children are at hand.

But again, is this states' rights or is it child exploitation? Are we willing to compete in American child labor? Are we not sure that, wherever children live, there should be intelligent limits to their employment—in mills, factories, canneries, mines and quarries at least—below which no industry and no State can safely go?

If So, What Can We Do About It?

Our method of legislating by states, with no national standard, seems to have been tried and found wanting. We have been legislating by states for 50 years or more and are not much nearer uniformity of standard than when the effort was begun. We have materially reduced child labor. Since the National Consumers' League and the National Child Labor Committee were founded, there has been an organized attack on the problem, and national standards have slowly been evolved. But children still work, even very young children. They work long hours, and they are out of school.

Legislation by states has been slow. While a state wrangles two or four or six or more years over standards, the stream of children flows out of its schools and into its industries. The children who are benefited by a shorter hours law six years from now are not the ones who are working 10 or 11 or 12 hours today. Thousands of children in the meantime have gone into the mills or canneries and the harm for them has been done.

Are we willing to have this go on indefinitely with something remedied here and another thing remedied there—off and on, haphazard; or shall we give expression to a national belief that every American child deserves the same rights, the same protections and the same opportunities?

Then a Constitutional Amendment is Necessary

For the method of federal legislation is closed by our present interpretation of the Constitution.

Changing the Constitution is alarming to many of us and we are slow to do it. Yet to a large number of responsible organizations, to hundreds of thinking individuals, and to a good many newspapers and periodicals, it has appeared to be the only way of assuring protection and development to our children.

Who is Behind the Amendment?

After the second child labor law was declared unconstitutional in May, 1922, many leading newspapers called at once for an amendment, and they

called not only from "high standard," but even from "low standard" states. A joint conference of interested organizations was held in Washington to canvass the situation and the Constitutional method was chosen as the only feasible one.

Included in the organizations which have endorsed a child labor amendment are: General Federation of Women's Clubs; National League of Women Voters; National Congress of Mothers and Parent-Teacher Associations; National Organization for Public Health Nursing; National Women's Trade Union League; National Consumers' League; Service Bureau; National Council of Catholic Women; National Council of Women; Needlework Guild of America; National Women's Relief Society; National Board of the Y. W. C. A.; National Council of Jewish Women; International Committee Y. M. C. A.; American Association of University Women; National W. C. T. U.; Children's Bureau, Department of Labor; Women's Bureau, Department of Labor; American Association for Labor Legislation; Federal Council Churches of Christ in America; American Federation of Teachers; The Public Education and Child Labor Association of Pennsylvania; National Federation of Business and Professional Women's Clubs; American Federation of Labor; and the National Child Labor Committee.

The Democratic National Committee and the Republican National Committee both were represented at the Washington hearings on an amendment by members who endorsed the idea.

The Secretary of Labor and the Chief of the Children's Bureau have both asked for an amendment. President Harding recommended it in his message to the special session of Congress in December, 1922. Several joint resolutions proposing amendments were introduced in this and the previous session, hearings were held, an amendment was favorably reported in both the Senate and the House, but no action could be taken before Congress adjourned. The question now awaits the next Congress.

The Amendment's Aims

In the opinion of the leaders of the movement, an amendment should be so worded as to

(1) give to Congress the right to fix a *minimum standard* of child employment for the whole nation, but
(2) give the States the right to have higher standards if they choose, and
(3) Leave room for change in the standards from time to time as conditions or ideas of child-protection may change.

What Would the Standards Be?

There are people who fear that any federal standard would be beyond all reason. When the proposed amendments were under discussion in the

last Congress, some of them used the words "the Congress shall have the power to limit or prohibit the labor of persons under 18 years of age," and people immediately leaped to the conclusion that all labor would be prohibited to persons under 18. At the same time agricultural child labor was discussed at some length, and again people concluded that all farm work by children would be prohibited by federal law.

Both of these things are manifestly impossible. Congress is, after all, made up of representatives of the States, and since not a single State has a flat 18-year limit or a prohibition of agricultural child labor, the representatives of the States would scarcely vote for any such standards. The broad wording is simply for the purpose of giving to Congress the right to change limits, years hence perhaps, without another Constitutional change.

What Congress would pass, if it created a federal child labor law within a few years, would probably be something very like the federal laws of 1916 and 1919. For Congress can never go far in advance of the ideas of its constituents. That is, we would have a national standard, not very high and not very low, but a standard on which the representatives of the majority of our states would agree.

How Would It Affect the States?

Some people say that a Constitutional Amendment and the probably resultant federal law would cause endless duplication in enforcement or would lead the states to neglect their own laws and leave it all to federal agents.

In the light of past experience this is unlikely. When the first federal law was enforced by the Department of Labor (Children's Bureau) it was found that in states where the enforcement was up to the federal standard, federal agents need have little concern. That is, federal work permits were required only in those states whose standards were below the law. As soon as this became known, the states were anxious to establish the fact that their standards and enforcement were good. *The federal law was an incentive to improve state conditions.*

Under the child labor tax law of 1919 enforcement was different, but again the states found it better to keep their own conditions up to the federal standards. As has been said, state factory inspectors felt that the federal laws helped their own enforcement, and manufacturers said it was easier to work under the federal laws. *The improvement of state child labor laws was obviously stimulated during the period of the two federal laws.*

In fact, the psychological effect of the federal *power to control child labor conditions* was so clear that it has been said that the mere knowledge

that the Government can create and enforce standards may be enough to bring the states into line without real federal action.

What Are the Objections?

There are of course all the usual local objections to child labor regulation. "We cannot afford it." "Our industries need the children." "Our people are too poor." "Work is good for children." "You are only throwing children out of work and into mischief on the streets." All of these ideas have been argued for a century or so, and most of us are aware that they do not hold water very long.

Industry is never justified in thriving on children. Child labor does not destroy poverty; it merely reproduces it. Child labor and the work that is good for children are two very different things. And child labor regulation does not "throw children on to the streets"; it puts them into our schools. It seems scarcely necessary to argue these points at length in this generation.

The two great objections to the Constitutional Amendment, however, are

(1) The mere fact of Constitutional change; and

(2) The supposed invasion of states' rights.

Many of the advocates of the child labor amendment have said openly that they dislike Constitutional change. Many of them are strong believers in states' rights, and would prefer more power rather than less to go to the states. Yet in this case they are agreed that the amendment is right.

Constitutional Change

Is there anything in the proposed amendment which violates the spirit of that document on which we base our claim that Americans have equality of opportunity and that our government gives fair conditions to all sections of its people? It is perfectly clear that the framers of the Constitution could not have imagined child labor as we know it. Our factories, mills, mines and quarries, our whole industrialization of life, have developed since the Constitution was written. Can we, then, believe that its framers deliberately denied to American children this protection by federal law? Could they deny what they could not foresee?

The Constitution of a republic should not be an unalterable document, a refuge for reactionaries, a barrier in the path of new measures for new needs. An inflexible constitution is the indication of an inflexible nation—and the nation that lives long must have flexibility.

States' Rights

Is the proposed amendment a serious invasion of states' rights? It would give to Congress the right to fix national conditions, as it has in suffrage, in prohibition, in pure food laws, and in other matters of national welfare. It would give to the states the right to have higher standards and to enforce their own standards. When the amendment was discussed in hearings before the Senate Committee in January, 1923, much was said of giving Congress power "concurrent with the States." And out of this discussion there emerged the idea that after all what we want is a minimum standard with no federal interference except where the state law is below standard. When the new Congress convenes new amendments will be proposed, and they will have been framed by the best of our constitutional lawyers in such form as to insure reserving to the federal government only this right to limit or prohibit child labor as a national issue. The only right which the states will actually lose is the right to work children under conditions which most of us believe harmful to the nation.

An issue which affects the whole nation so basically cannot be left to the haphazard legislation of forty-eight different states. When one state lapses the others suffer. If there are a few rotten apples in a barrel, the whole barrel of good apples is soon spoiled. When a few states are backward in their child labor legislation, the other states are forced to meet unfair competition, and to circumvent the laws they have made—the whole barrel succumbs to the bad influence of the few.

It is to reinforce the weak patches in our federal quilt that the strong backing of a Constitutional amendment is needed.

Nevertheless, there are people who still hold that *in principle* the thing is wrong because any Constitutional change or any change in states' rights is wrong. It becomes, then, a question of relative importance:

Which is more important to national welfare: a strict adherence to the letter of the Constitution, written when the present condition did not exist—or American children?

Which is more important: the principle of states' rights—or American children?

The new Congress will have to answer those questions. Shall we tell it to answer in favor of the children, as the President and those organizations closest to children have requested? Or shall we tell it to stick to the present letter of the law—and to American child labor?

APPENDIX

Summary of State Standards Concerning Child Labor*

Age-limit in Factories and Canneries—There are only two states, Utah and Wyoming, which do not recognize the 14-year limit, and they have no limit at all except for dangerous trades. Twenty-seven states have the 14-year limit, or higher, for the establishments named (and in most cases include many other occupations, sometimes all gainful occupations, except agriculture or domestic service). The other twenty-one states have the 14-year limit for factories and canneries in part, but allow exemptions or have a lower age-limit for certain classes of children, certain industries, or certain times of the year.

Seventeen of these states exempt from the 14-year law work outside of school hours, or during school vacations, work by children whose earnings are needed for family support, or work for the child's parent or guardian. Delaware and Virginia permit children 12 years of age to work in canneries, Virginia outside school hours or during school vacation. Mississippi allows boys of 12 to work in mills, factories and canneries, and since canneries are omitted from the "penalty clause" of the law, it is not surprising that investigators find children *under* 12 at work in canneries there.

The 1920 Census records only 9,473 children under 14 engaged in manufacturing and mechanical industries, but when the Census was taken many canneries, for instance, were not in operation. After the first federal law was declared unconstitutional in June, 1918, the Children's Bureau investigated 24 factories in Georgia, where there is a 14-year limit with a lower age permitted in the case of orphans or children of widows, and found only 40 children under 14 employed. But all those children were working 10 hours or more a day, and 2 of them were on a 12-hour shift at night.

In fact, it should be remembered that the states and industries where children under 14 may be employed are usually identical with those where hours of labor are longest or night-work is permitted.

HOURS OF LABOR

Twenty-seven states have an 8-hour day and 48-hour week for children between 14 and 16 in mills, factories, canneries, etc. Two states have the 8-hour day with exemptions. The other 19 states have a day longer than 8 hours for either factories or canneries, or both.

Among the collection of laws on hours we find such things as these:

Georgia—10-hour day, 60-hour week, cotton or woolen mills; "sunrise to sunset," all other factories, persons under 21.

Mississippi—8-hour day for boys under 16, girls under 18, *but in cotton and knitting mills applies only to boys under* 14, *girls under* 16. 10-hour day, 60-hour week for the rest. Canneries, again, omitted from the "penalty clause."

North Carolina—8-hour day *for children under* 14. 11-hour day, 60-hour week, for all others. There is a 14-year limit, but boys of 12 may work in mills and factories when schools are not in session, with a special permit.

Louisiana, Michigan, Rhode Island, South Carolina, South Dakota and Texas all have a 10-hour day; New Hampshire 10¼ hours. South Carolina allows a longer day "to make up time." In Texas, the week is 48 hours; in Michigan, Rhode Island and New Hampshire 54; in South Carolina 55 (longer to make up time); in Louisiana and South Dakota, 60 hours.

* No attempt has been made to correct the summary of these laws beyond December 31, 1922, inasmuch as no complete returns are obtainable of the legislative work of the various states during 1923. Special mention, however, should be made in the case of Wyoming, which in March of 1923 passed a sweeping child labor bill. This bill brought Wyoming at one step from the most backward of our states in regard to child labor legislation to a place in the foremost ranks, among the 18 states whose standards are equal to or in advance of the federal one.

Canneries, which are notorious employers of children, are exempted from the factory hours laws in Delaware, Idaho, Maine, Maryland, Michigan, Missouri, Utah and Virginia, with Mississippi, again, omitting them from the "penalty clause" as noted above.

NIGHT WORK

Twenty-six states have a night work prohibition for children between 14 and 16 in factories, canneries, etc. (7 p.m. to 6 a.m., as fixed in the federal laws). Eleven states have the night work prohibition but with different sets of hours, earlier or later. Eleven states have no such prohibition or it does not apply to both factories and canneries, or does not extend to children of 16.

There is no night work prohibition in Nevada, South Dakota, Texas, Utah and Wyoming.

Georgia prohibits night work only under 14½.

Mississippi exempts boys of 14 from the night-work law in cotton and knitting mills.

Canneries are exempted from the night-work law in Delaware, Maine, Maryland, Michigan and Virginia.

MINES AND QUARRIES

Twenty-four states have a 16-year limit, or higher, for mines and quarries. Seven states have such an age-limit for mines but not for quarries. Seventeen states have an age-limit lower than 16, or no minimum at all. There are, of course, a few states where mining is practically non-existent.

Mining is generally known as a dangerous occupation, and for the most part this form of child labor is covered by law. Yet the 1920 Census lists 7,191 children under 16 as engaged in "the extraction of minerals" and 647 of them are between 10 and 13. The Children's Bureau in a recent investigation of one Pennsylvania anthracite mine found 103 boys under 16 at work underground, although Pennsylvania has a 16-year limit for mines.